

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

Eric James Brooks
System ID No. 0280723

Enforcement Case No. 08-5672

Respondent
_____ /

Issued and entered
On October 21, 2008
by Stephen R. Hilker
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all pertinent times, Eric James Brooks was a resident insurance producer, System ID No. 0280723, licensed to sell, solicit and/or negotiate insurance in the State of Michigan.
2. As a licensed insurance producer, Respondent knew or had reason to know that Section 1207(1) of the Code requires: "An agent to be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility."
3. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
4. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
5. On or about November 28, 2007, Respondent completed an application for automobile insurance with Titan Insurance Company for [REDACTED]. The application was not uploaded to Titan Insurance Company. Premium money was not deposited into the

agency Electronic Funds Transfer (EFT) bank account to be paid to Titan Insurance Company.

6. On or about December 7, 2007, a certificate of automobile insurance showing Titan Insurance Company as the insurer was faxed to the Secretary of State's office in Flint, Michigan.
7. On or about January 10, 2008, the Baker Insurance Agency began an audit of Respondent's book of business.
8. On or about January 14, 2008, the Baker Insurance Agency discovered the application and premium money was never sent to Titan Insurance Company.
9. On or about January 14, 2008, the Baker Insurance Agency completed a new application for automobile insurance for [REDACTED]. The application and premium were sent to Titan Insurance Company. The premium was paid by Baker Insurance Agency.
10. On or about December 12, 2007, [REDACTED] made a \$565.08 automobile insurance premium payment to Respondent, receipt number 35206, dated 12/12/07.
11. [REDACTED] payment was never sent to Progressive Insurance Company.
12. On or about December 24, 2007, the Baker Insurance Company discovered this payment was never remitted to Progressive Insurance Company. Baker Insurance Agency then made an express money transfer of \$565.08 to Progressive Insurance Company on [REDACTED] automobile insurance policy number [REDACTED].
13. In the course of the Baker Insurance Agency's audit of Respondent's book of business, Baker Insurance Agency found four other consumers who stated they made premium payments to Respondent that were never remitted to their proper carriers.
14. On or about January 14, 2008, the Baker Insurance Agency made a \$214.00 automobile insurance premium payment to Freemont Insurance Company for [REDACTED] policy number [REDACTED].
15. On or about January 22, 2008, the Baker Insurance Agency made a \$375.25 automobile insurance premium payment to Progressive Insurance Company for [REDACTED] policy number [REDACTED].
16. On or about January 24, 2008, the Baker Insurance Agency made a \$170.00 automobile insurance premium payment to Frankenmuth Mutual Insurance Company for [REDACTED].
17. On or about January 24, 2008, the Baker Insurance Agency made a \$317.00 automobile insurance premium payment to Frankenmuth Mutual Insurance Company for [REDACTED].

18. On or about February 25, 2008, the OFIR Investigator met with William Baker of the Baker Insurance Agency and Mr. Baker provided documentation showing applications and money not remitted to insurance carriers. Mr. Baker also provided a list of insureds and the amounts he believed was owed due to Respondent's failure to remit premiums.
19. On or about February 29, 2008, the OFIR Investigator called the phone number listed in Respondent's license record and the number provided by Baker Insurance Agency and left a message for Respondent to contact the Investigator.
20. On or about March 3, 2008, the OFIR Investigator attempted to contact Respondent by phone and left a second message for Respondent to contact the OFIR Investigator.
21. On or about March 6, 2008, the OFIR Investigator sent certified letters to Respondent's address of record and the address provided by Baker Insurance Agency asking Respondent to contact the OFIR Investigator. The letter sent to 1522 Mulberry Lane, Flint, Michigan was received (receipt number 7007 3020 0001 4686 0510); the other was returned "vacant unable to forward."
22. On or about March 25, 2008, the OFIR Investigator sent a certified letter (receipt number 7007 3020 0001 4686 2620) to Respondent at the Mulberry address where the first letter was delivered, asking him to contact the OFIR Investigator. Respondent received and signed for the letter on April 17, 2008.
23. Based upon the above actions, Respondent has committed acts that are grounds for the Commissioner ordering licensing sanctions and/or civil fines under Section 1244(1) of the Code for the Respondent violating Section 1207(1), 1239(1)(d), and 1239(1)(h) of the Code.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate with Section 1207(1) and 1239(1) of the Code, MCL 500.1207(1) and 500.1239(1).
2. Respondent's license and authority are hereby **REVOKED**.

By: Stephen R. Hilker
Stephen R. Hilker
Chief Deputy Commissioner

Dated: 10/21/08